

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEFFREY W. WARNER, <sup>1</sup>	§	
	§	No. 713, 2010
Petitioner Below,	§	
Appellant,	§	Court Below: Family Court of
	§	the State of Delaware, in and for
v.	§	Sussex County
	§	
JASMINE WARNER,	§	File No. CS08-02236
	§	Petition No. 09-14246
Respondent Below,	§	
Appellee.	§	

Submitted: April 27, 2011

Decided: May 6, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 6<sup>th</sup> day of May 2011, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Jeffrey W. Warner (“Husband”), the petitioner-below, appeals from a Family Court order dividing the marital estate of Husband and the respondent-below, Jasmine Warner (“Wife”). On appeal, Husband claims that the Family Court erroneously applied the marital property division statute, 13 *Del. C.* § 1513(a), by assigning fifty-five percent of certain marital debts to him, because

---

<sup>1</sup> The Court, *sua sponte*, has assigned pseudonyms to all parties under Supreme Court Rule 7(d).

those debts should have been divided equally between Husband and Wife. We find no merit to Husband's appeal, and affirm.

2. Husband filed a petition for divorce from Wife after approximately six years of marriage. After granting the parties' divorce, the Family Court retained ancillary jurisdiction over the case to divide the marital estate. Husband and Wife agreed on the division of certain marital assets,<sup>2</sup> but not of two marital debts that the parties asked the Family Court to divide: (1) a personal loan from a credit union for \$4,582.59, and (2) an automobile loan for \$14,052.74. Wife asked the Family Court to allocate responsibility for fifty-five percent of those loans to Husband. After conducting a hearing at which both Husband and Wife testified, the Family Court ordered Husband to assume liability for fifty-five percent of the personal and automobile loans.<sup>3</sup> Husband now appeals.

3. Husband claims that by assigning fifty-five percent of the two marital debts to him, the Family Court erroneously applied the marital property division statute, 13 *Del. C.* § 1513(a). Husband argues that the Family Court "failed to express a rationale for this decision" and "seemingly ignored the application of [ ] [s]ection 1513. . . ." Specifically, Husband claims that the Family Court failed to consider the following factors: (a) the amount of money Wife would receive from

---

<sup>2</sup> The parties stipulated to the division of their vehicles, bank accounts, Wife's pension, and Husband's IRA and retirement accounts without any attribution of value. Order at 1 n.1 (Fam. Ct. Oct. 25, 2010).

<sup>3</sup> *Id.* at 6-7.

Husband's pension plan payments; (b) the amount of money Wife had received during the parties' separation period; (c) the fact that both parties were operating at a monthly deficit; and (d) the fact that the martial debts "were to be divided without attribution." Had the Family Court properly considered those factors, Husband argues, the martial debts would have been divided equally.

4. We review a Family Court's decision dividing the martial estate for abuse of discretion.<sup>4</sup> We review conclusions of law *de novo*, but we will not disturb the trial court's findings of fact "unless they are clearly wrong and justice requires [them to be] overturn[ed]."<sup>5</sup>

5. The Family Court has broad discretion in dividing the martial estate.<sup>6</sup> Section 1513(a) provides that the Family Court "shall . . . *equitably* divide, distribute and assign the martial property between the parties. . . ."<sup>7</sup> "Equitably," however, is not synonymous with "equally." Rather, the Family Court must

---

<sup>4</sup> *Olsen v. Olsen*, 971 A.2d 170, 174 (Del. 2009).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 178.

<sup>7</sup> 13 *Del. C.* § 1513(a) (emphasis added).

analyze and balance each of the eleven factors enumerated in Section 1513(a).<sup>8</sup> In doing that, the court need not give equal weight to each factor.<sup>9</sup>

6. We conclude that the Family Court did not abuse its discretion in allocating fifty-five percent of the disputed martial debts to Husband. In reaching that division, the Family Court considered each of the eleven Section 1513(a) factors and the relevant evidence. The Family Court specifically recognized that: (a) the parties were married for approximately six years; (b) Wife earned approximately \$15,000 annually; (c) Husband earned approximately \$37,356.80 annually; (d) Wife's monthly shortfall was approximately \$1,311.62, and (e)

---

<sup>8</sup> *Olsen*, 971 A.2d at 178.

<sup>9</sup> *Id.* The eleven enumerated factors are:

- (1) The length of the marriage;
- (2) Any prior marriage of the party;
- (3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;
- (4) Whether the property award is in lieu of or in addition to alimony;
- (5) The opportunity of each for future acquisitions of capital assets and income;
- (6) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker, husband, or wife;
- (7) The value of the property set apart to each party;
- (8) The economic circumstances of each party at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the party with whom any children of the marriage will live;
- (9) Whether the property was acquired by gift, except those gifts excluded by paragraph (b)(1) of this section;
- (10) The debts of the parties; and
- (11) Tax consequences.

13 *Del. C.* § 1513(a).

Husband's monthly shortfall was between \$696 and \$834.<sup>10</sup> After balancing those factors and the relevant evidence, the Family Court concluded that Husband should assume fifty-five percent of the personal and automobile loans based on Husband's higher earning potential and his smaller monthly deficit.<sup>11</sup> That decision was not an abuse of discretion, because it was the product of an orderly and logical reasoning process.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

---

<sup>10</sup> Order at 2-6 (Fam. Ct. Oct. 25, 2010).

<sup>11</sup> *See id.* at 6.